UNITED STATES PATENT AND TRADEMARK OFFICE

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10/686,432	10/15/2003	Michael Wayne Brown	AUS000054US2	7293

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>11 June 2003</u>.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-8 and 10</u> is/are pending in the application.

    4a) Of the above claim(s) <u>9</u> is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-8 and 10</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on <u>15 October 2003</u> is/are: a)☒ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION

1.   This communication is a First Office Action Non-Final rejection on the merits.

This is in response to the request for continued examination received on June 11, 2008.

The amendment to claim 1 has been entered and claim 9 has been cancelled.

Claim Rejections - 35 USC § 103

2.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

3.   The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148

USPQ 459 (1966), that are applied for establishing a background for determining

obviousness under 35 U.S.C. 103(a) are summarized as follows:

1.   Determining the scope and contents of the prior art.
2.   Ascertaining the differences between the prior art and the claims at issue.
3.   Resolving the level of ordinary skill in the pertinent art.
4.   Considering objective evidence present in the application indicating
        obviousness or nonobviousness.

4.   **Claims 1 – 8 and 10 are rejected under 35 U.S.C. 103(a) as being**

unpatentable over Salvo (6,341,271) in view of Sone (6,204,763).

        As per claim 1, Salvo discloses a store inventory management system, said

system comprising:

a computer system with access to a database of current merchant inventory for a store and a database of orders for said store (col. 2, lines 26 – 31; via automated computer managed inventory systems have been proposed to overcome some of the above-noted shortcomings. In one proposed system, an inventory system determines amounts and past usage in tanks to schedule, orders replenishing material);

a communication interface between said computer system and a universally accessible database, wherein selections of items that are absent from a plurality of homes are accessible at said computer system via said universally accessible database according to a plurality of universal identifiers each respectively associated with one of said plurality of homes (col. 7, lines 55 - 62; via the analyzed information from the control unit 114 is typically accessible anywhere and any time, for example by phone, voice mail, fax, overnight and regular mail, courier, and over the Internet. If the information is sent over the Internet, the analyzed information is available by simply connecting to an appropriate web site, where the analyzed information is presented and updated instantaneously, or as appropriate);

and an inventory control element executable on said computer system for adjusting future orders for said store according to current inventory, ordered inventory and said selections of items that are absent from said plurality of homes. ((57); via the system includes a storage for inventory, an indicator for monitoring and reporting the level of current inventory, and a controller for receiving information from different inventory suppliers and for integrating such information with information on current

inventory amounts and estimated future use to decide if an order for replacing inventory

should be made),

wherein said inventory control element is further configured to assign a sale offer

for a particular period to a particular food-related item according to said selections of

food-related items that are absent from said plurality of homes (col. 8, lines 51-60;

discuss a critical event of very low inventory pricing. Through this critical event, the

control unit 114 can assign a sale price for the period that this critical event lasts).

However, Salvo fails to explicitly disclose "food-related inventory". Sone teaches,

(col. 1, line 16; Refrigerators for storing refrigerated consumable food items), for the

purposes of preventing undesirable perishable food spoilage.

From this teaching of Sone, it would have been obvious to one of ordinary skill in

the art at the time the invention was made to modify the inventory management system

of Salvo to include food related items taught by Sone in order to prevent undesirable

perishable food spoilage.

As per claim 2, Salvo teaches, wherein said inventory control element adjusts

said future orders according to a historical database of inventory for said store

accessible at said computer system (col. 2, lines 26 - 31; via automated computer

managed inventory systems have been proposed to overcome some of the above-noted

shortcomings. In one proposed system, an inventory system determines amounts and

past usage in tanks to schedule, orders replenishing material).

As per claim 3, Salvo teaches, wherein said selections of items that are absent from said plurality of homes include expected dates for purchase (col. 11, lines 57 – 63; via a display for an indication of a latest low-amount notification date at 227; and a display for a material shipped date at 229. These displays are merely exemplary, and the exact displays are determined to provide plant management and vendors with the highest degree of information needed and desired by them).

As per Claim 4, Salvo inherently discloses said selections of items that are absent from said plurality of homes are accessed in an extensible mark-up language data format (col. 6, line 31; via including internet communication; it is evidence that the internet uses extensible mark-up languages such as HTML and XML).

As per claim 5, Salvo teaches, wherein said communication medium comprises a connection to a network from which said universally accessible database is accessible (col. 7, lines 55 – 62; via the analyzed information from the control unit 114 is typically accessible anywhere and any time, for example by phone, voice mail, fax, overnight and regular mail, courier, and over the Internet. If the information is sent over the Internet, the analyzed information is available by simply connecting to an appropriate web site, where the analyzed information is presented and updated instantaneously, or as appropriate).

As per claim 6, Salvo teaches, wherein said universally accessible database directs access to a plurality of universally accessible server systems according to said plurality of universal identifiers (col. 9, lines 48 - 53; via the inventory management system 100 enables location and identification of individual inventory orders at the manufacturing site 103, for example identification of a vendor's inventory at the manufacturing site 103. This inventory identification can use identifying codes, such as, but not limited to, bar codes).

As per claim 7, Salvo discloses all the elements of the claimed invention but fails to explicitly disclose, wherein said inventory control element further comprises:

means for identifying food-related items included in said selections of food-related items that are absent from said plurality of homes that are not included in a database of current food-related inventory and said database of food-related orders for said store.

Sone teaches, means for identifying food-related items included in said selections of food-related items that are absent from said plurality of homes that are not included in a database of current food-related inventory and said database of food-related orders for said store (col. 4, lines 2 – 4; via similarly, the inventory processor is configured to add an item to the list for each absent item which is associated with a presence sensor).

From this teaching of Sone, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the inventory management system

of Salvo to include the inventory processor of Sone in order to include items which are

absent in the database.

As per claim 8, Salvo teaches, wherein said plurality of universal identifiers are

provided to said computer system by each of said plurality of homes (col. 9, lines 48 -

53; via the inventory management system 100 enables location and identification of

individual inventory orders at the manufacturing site 103, for example identification of a

vendor's inventory at the manufacturing site 103. This inventory identification can use

identifying codes, such as, but not limited to, bar codes).

As per claim 10, Salvo discloses all the elements of the claimed invention but

fails to explicitly disclose, wherein purchases by each of said plurality of homes are

monitored in association with each of said respective plurality of universal identifiers.

Sone teaches, wherein purchases by each of said plurality of homes are

monitored in association with each of said respective plurality of universal identifiers

(col. 3, lines 60 - 65; via the inventory processor thus comprises a program, which

monitors the sensors, so as to determine the actual inventory of desired household

consumable items. The actual inventory is compared to a desired inventory, and a list is

made of those items, which are part of the desired inventory, but are not present in the

actual inventory).

From this teaching of Sone, it would have been obvious to one of ordinary skill in

the art at the time the invention was made to modify inventory management system of

Salvo to include the monitoring of sensors of Sone, in order to determine the actual

inventory of desired household consumable items.

Response to Arguments

5.   Applicant's arguments filed June 11, 2008, have been fully considered but they

are not persuasive.

Applicant argues, "In sum, neither Salvo or Sone, alone or in combination, teach

or suggest adjusting future food-related orders for a store according to current food-

related inventory, ordered food-related inventory, and selections of food-related items

that are absent from a plurality of homes. Nor does Salvo or Sone, alone or in

combination, teach or suggest assigning a sale offer for a particular period to a

particular food- related item according to selections of food-related items that are absent

from a plurality of homes. As noted above, Salvo is directed to a system that purchases

inventory (as contrasted with a system that sells inventory)."

However, Salvo states in col. 8, lines 51-60, "The control unit 114 and the service

center 175 can send alerts to plant management at the manufacturing site and vendors

(if desired), if a "critical" event, such as but not limited to, extreme shortages in

inventory, very low or high inventory prices, and changes in economic indicators occur."

Through the critical event of very low inventory pricing, the control unit 114 can assign a

sale price for the period that this critical event lasts.

In addition, Col. 8, lines 5 – 25 also discuss "An alert can be generated by the

control unit 114 if a pellet price is within a price range designated by plant management,

and alternatively by an economic model, as a desirable (premium) price to sell the

pellets." This premium price can be assigned as a sale offer, therefore the Examiner

respectfully disagrees.

Conclusion

6.   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to OLUSEYE IWARERE whose telephone number is

(571)270-5112. The examiner can normally be reached on M-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Matthew S. Gart can be reached on (571)272-6790. The fax phone number

for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

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For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

USPTO Customer Service Representative or access to the automated information

system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Elaine Gort/
Primary Examiner, Art Unit 3687

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